

## **Argument**

### **A. Pending Claims**

Claims 1883-1886, 1888-1925, 1927-1960, and 5396-5415 are pending in the case. Claims 1883-1886, 1888-1892, 1894, 1906, 1909-1912, 1914, 1916, 1917, 1922-1925, 1927-1929, 1931, 1933, 1945, 1948-1951, 1953, 1955, 1956, 5406-5409, 5412, 5414, and 5415 have been amended. Support for amended claims 1883, 1922, and 5406 is found at least on page 52, lines 11-18, page 53, lines 7-14, and page 70, lines 24-30 of the Specification. Claims 1884-1886, 1888-1892, 1894, 1906, 1909-1912, 1914, 1916, 1917, 1923-1925, 1927-1929, 1931, 1933, 1945, 1948-1951, 1953, 1955, 1956, 5407-5409, 5412, 5414, and 5415 have been amended for clarification and/or for correction of typographical errors. Claims 1887 and 1926 have been cancelled.

### **B. Provisional Double Patenting Rejection**

Applicant acknowledges the Examiner's agreement to suspend the double patenting rejections until the claims are condition for allowance but for the double patenting rejection.

### **C. The Claims Are Not Obvious Over Tsai Pursuant to 35 U.S.C. § 103(a)**

The Examiner rejected claims 1883-1889, 1893-1906, 1909-1911, 1916-1918, 1922-1928, 1932-1945, 1948, 1949, 1950, 1955-1957, 5398-5401, 5406-5408, and 5410-5414 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 4,299,285 to Tsai et al. (hereinafter "Tsai"). Applicant respectfully disagrees that the claims are unpatentable over the cited art.

To reject a claim as obvious, the Examiner has the burden of establishing a *prima facie* case of obviousness. *In re Warner et al.*, 379 F.2d 1011, 154 U.S.P.Q. 173, 177-178 (C.C.P.A. 1967). To establish a *prima facie* obviousness of a claimed invention, all the claim limitations

must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974); MPEP 2143.03.

Amended claim 1883 describes a combination of features including: “assessing an atomic hydrogen to carbon ratio of at least some hydrocarbons in the formation” and “selecting a part of the formation for heating, wherein at least some hydrocarbons in the part have an atomic hydrogen to carbon ratio greater than about 0.70 and less than about 1.65”. Amended claims 1922 and 5406 describe a combination of features including: “assessing an atomic hydrogen to carbon ratio of at least some hydrocarbons in the formation” and “selecting a part of the formation for heating, wherein at least some hydrocarbons in the part have an initial atomic hydrogen to carbon ratio greater than about 0.70 and less than about 1.65”. Applicant submits that the combination of features in claims 1883, 1922, and 5406 do not appear to be taught or suggested by the cited art. Applicant respectfully requests removal of the rejections of claims 1883, 1922, 5406, and the claims dependent thereon.

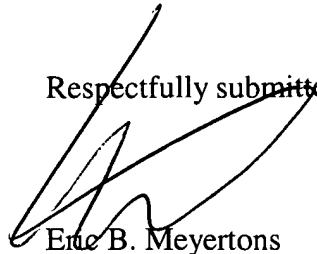
**D. Additional Comments**

Applicant submits that all claims are in condition for allowance. Favorable consideration is respectfully requested.

A Fee Authorization is enclosed to cover charges associated with filing a Request for Continued Examination and a one-month extension of time. If any additional extension of time is required, Applicant hereby requests the appropriate extension of time. If any additional fees are required, or if fees have been overpaid, please appropriately charge or credit those fees to Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C. Deposit Account Number 50-1505/5659-02000/EBM.

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Respectfully submitted,



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